

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :  
:  
v. :  
:  
BRANDON LISI, :  
:  
Defendant. :  
:  
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USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: November 13, 2017

15 Cr. 457-1 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court has received Defendant Brandon Lisi's post-sentencing submission, a letter from his counsel dated September 25, 2017. (Dkt. #121 (copy attached to this Order)). In it, Mr. Lisi requests that the Court make the following three additional recommendations to the Federal Bureau of Prisons (the "BOP") regarding his sentence:

- 1) That Mr. Lisi be afforded a full 12 month period in a halfway house (community correctional facility);
- 2) That Mr. Lisi be afforded the maximum time permitted on home confinement; and
- 3) That the BOP place Mr. Lisi in the RDAP program located at the Federal Prison Camp at Lewisburg, Pa., when he is ready to participate in the [Residential Drug Abuse Program].

(*Id.* at 2-3). The Court recognizes that, under 18 U.S.C. § 3261(b)(4), the BOP may consider statements the Court makes "(A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or (B) recommending a type of penal or correctional facility as appropriate[.]" It therefore proceeds to consider Mr. Lisi's requests. For avoidance of doubt, any

statements in this Order directed to the BOP are recommendations, and certainly not directives.

At sentencing, pursuant to requests from Mr. Lisi, the Court recommended that Mr. Lisi be designated on an expedited basis to FPC Canaan and that he participate in a Residential Drug Abuse Program (“RDAP”). However, at the time of this Order, Mr. Lisi remained at FCI Fort Dix. For this reason, the Court offers the following clarification of its recommendations concerning designation: It was the Court’s contemplation that Mr. Lisi, who has an aggregate sentence of considerable length from three separate criminal convictions, could serve the remaining time on his earlier two sentences at FPC Canaan, and then, at or near the time he begins serving the 38-month sentence imposed in this case, could be transferred to a facility with an RDAP program, such as FPC Lewisburg. If either or both of these placements is not practicable, then the Court recommends designation to a minimum-security facility near the New York metropolitan area with an RDAP program.

With respect to Mr. Lisi’s first and second requests, the Court offers no recommendations. Instead, it understands that, pursuant to 18 U.S.C. § 3624, the BOP will consider carefully Mr. Lisi’s conduct while incarcerated, along with the factors listed in § 3621(b), in determining whether and when to transition Mr. Lisi to prerelease custody.

SO ORDERED.

Dated: November 13, 2017  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

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KATHERINE POLK FAILLA  
United States District Judge

**JOSEPH A. GROB, P.C.**

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September 25, 2017

*By Email and ECF*

Hon. Katherine Polk Failla  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: United States v. Lisi  
15 Cr-457 (KPF)

Dear Judge Failla:

This letter-motion is respectfully submitted to request that Your Honor make three additional recommendations to the Federal Bureau of Prisons (“BOP”) in connection with the sentence that Your Honor imposed on Mr. Lisi on September 19, 2017, and which was memorialized by the judgment filed on September 21, 2017.

On September 19, 2017, Your Honor sentenced Mr. Lisi to a 38 month prison term to run consecutively with the 78 month sentence that Mr. Lisi is currently serving in connection with Southern District of New York Case Numbers 09-Cr.-948(NRB) and 09-Cr.-1188(LTS).

At sentencing, I made two requests for recommendations related to the sentence. The first was that Mr. Lisi be designated, in an expedited manner, to FPC Canaan. The second request was for the Court to recommend that Mr. Lisi be afforded an opportunity to participate in the BOP’s Residential Drug Abuse Program (“RDAP”). Your Honor granted both of those requests.

Subsequent to sentencing, Mr. Lisi contacted me and asked me contact the Court to request that Your Honor also recommend that the BOP afford him with 12 months in a Community Correctional facility (also known as a “halfway house”) towards the end of his sentence.

18 U.S.C. § 3624(c)(1) provides that the BOP is directed to

ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.

Thus, the maximum amount of time that a prisoner may be designated to a halfway house appears to be 12 months, and accordingly, Mr. Lisi requests that Your Honor recommend that he be afforded a full 12 month term in a halfway house.

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Mr. Lisi requests that Your Honor also recommend that he be afforded the maximum time allowable in home confinement. As part of the BOP's authority to prepare an inmate for reentry, the BOP may also place an inmate on home confinement for "10 percent of the term of imprisonment of that prisoner or 6 months" whichever is shorter. *See* 18 U.S.C. § 3624(c)(2).

As Your Honor is aware, Mr. Lisi's mother suffers from a variety of medical conditions and is cared for primarily by her aides. The defense has argued that Mrs. Lisi requires Mr. Lisi's assistance at home sooner rather than later. The additional requests for the recommendations being submitted herein are made with a view toward affording Mr. Lisi an opportunity to assist his mother as much as possible as soon as possible. Accordingly, Mr. Lisi requests that Your Honor recommend to the BOP that he be afforded the maximum allowable time on home confinement pursuant to 18 U.S.C. § 3624(c)(2).

When Mr. Lisi is released to community supervision, be it on community confinement or home confinement, he intends to fully participate in his mandatory RDAP aftercare and to attend AA meetings. Mr. Williams, the mitigation expert that the defense retained in this case, has graciously agreed to voluntarily serve as Mr. Lisi's sponsor for AA at that time.

Finally, at the time of sentencing I was unaware of what federal prison camps were available for the RDAP program. I am now advised that there is an RDAP program in the Federal Prison Camp attached to the Federal Penitentiary at Lewisburg, Pa. That RDAP Prison Camp location appears to be the one that is closest to Mr. Lisi's home and would facilitate visitation. Thus, Mr. Lisi requests that Your Honor recommend that the BOP designate him to the Federal Prison Camp at Lewisburg, Pa., when he becomes eligible for participation in the RDAP program.

Mr. Lisi respectfully requests that the Court make these additional recommendations and that the judgment be amended to reflect these recommendations if possible. While these requests were not clerical mistakes in the judgment or the record pursuant to Fed. R. Crim. P. 36, Mr. Lisi maintains that they should be treated as an oversight and/or omission by counsel at sentencing because I did not make these requests at sentencing.

In light of all of the above, Mr. Lisi respectfully requests that Your Honor recommend to the BOP:

- 1) That Mr. Lisi be afforded a full 12 month period in a halfway house (community correctional facility);
- 2) That Mr. Lisi be afforded the maximum time permitted on home confinement; and
- 3) That the BOP place Mr. Lisi in the RDAP program located at the Federal Prison Camp at Lewisburg, Pa., when he is ready to participate in the RDAP program.

Hon. Katherine Polk Failla

September 25, 2017

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If the Judgment cannot be amended for these purposes, I respectfully request that Your Honor still make the requested recommendations by endorsing this letter-motion accordingly.

I have conferred with AUSA Reilly about these requests and I am advised that the Government objects to these requests.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joseph Grob". The signature is fluid and cursive, with the first name "Joseph" written in a larger, more prominent script than the last name "Grob".

Joseph A. Grob

cc: AUSA Reilly (by email)  
Brandon Lisi (by mail)